

MEMO ENDORSED

LAW OFFICE OF
NATHANIEL B. SMITH
ATTORNEY AT LAW
225 BROADWAY-SUITE 1901
NEW YORK, NEW YORK 10007

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 8/21/2021

NATHANIEL B. SMITH
natbsmith@gmail.com

TEL: 212-227-7082
FAX: 212-656-1090

August 20, 2021

Honorable Valerie Caproni
United States District Court Judge
Southern District of New York
40 Foley Square, Room 240
New York, New York 10007

Airday v. City of New York, et al.
14-cv-8065 (VEC)

Dear Judge Caproni:

Pursuant to the Court's Order, dated June 23, 2021 (Dkt. # 256), I am writing to the Court this joint status letter on the above-referenced action. As the Court knows, sadly, on June 20, 2021, Plaintiff George Airday died in a motorcycle accident, and after notification to the Court, the Court stayed the action on June 23, 2021 for 60 days. (A copy of George Airday's death certificate is attached as Exhibit 1.)

After the family was unable to locate an original will, on August 5, 2021, the family filed a Petition with the Ulster County Surrogate's Court requested that Letters of Administration be issued temporarily appointing one of George Airday's sons, Daniel Airday, as Administrator of the Estate of George Airday. The proceeding was filed in Ulster County because that was George Airday's county of residence at the time of his death.

On August 19, 2021, the Ulster County Surrogate's Court granted the Petition and issued Letters of Administration to Daniel Airday as the Administrator of the Estate of George Airday. (A copy of the Letters of Administration is attached as Exhibit 2.)

On that same day, August 19, 2021, Daniel Airday, as Administrator, authorized me to appear as attorney of record for the Estate of George Airday. In that capacity, I today filed on ECF my Notice of Appearance as counsel for the Estate of George Airday in this action. (A copy of my Notice of Appearance is attached as Exhibit 3.)

As counsel for the Estate, I am requesting by this letter that the Court lift the stay on this action and that the Court grant the Estate's motion pursuant to Rule 25 of the Federal Rules of Civil Procedure to be substituted in as the Plaintiff in this action. Rule 25(a)(1) provides: "A motion for substitution may be made by any party or by the decedent's successor or representative." Defendants' counsel has informed me that the Defendants do not oppose the

LAW OFFICE OF
NATHANIEL B. SMITH

substitution motion. Accordingly, I am requesting that the motion to substitute the Estate of George Airday as Plaintiff be granted.

In addition, the Defendants have requested, and I have agreed, that the Defendants will serve a suggestion of death and any other required papers on the Estate on or before September 3, 2021. I have informed the Defendants that I am authorized to accept service of those papers.

Finally, I am also requesting on behalf of the Estate, and with the consent of counsel for the Defendants, that the Court re-set deadlines for the Defendants' to file any post-trial deadlines and to respond to the proposed judgment previously filed by George Airday. The parties request that motion papers and a response to the proposed judgment be filed by October 4, 2021; that opposition be filed by November 3, 2021; and that any reply papers be filed by November 17, 2021.

Thank you for consideration of these matters.

Respectfully submitted,



Nathaniel B. Smith

Application GRANTED. The stay in this action is lifted; the Court grants the Estate of George Airday's request to be substituted into this action as Plaintiff. Defendants must serve a suggestion of death and other relevant papers on the Estate not later than **September 3, 2021**. Defendants' must file any post-trial motions and respond to the previously filed proposed judgment not later than **October 4, 2021**. Plaintiff must respond not later than **November 3, 2021**. Defendants may reply in further support not later than **November 17, 2021**.

SO ORDERED.



8/21/2021

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

By ECF
cc: William Grey, Esq.
(via ECF)